

Introduced by Senator Vincent

February 17, 2004

An act to amend Sections 30504, 30804.7, 31751, and 31751.7 of, to amend and repeal Sections 30503 and 31751.3 of, and to repeal Sections 30526 and 31766 of the Food and Agricultural Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

SB 1301, as introduced, Vincent. Dogs and cats: spaying and neutering.

Existing law, scheduled to be repealed on January 1, 2006, generally prohibits public pounds and private shelters from selling or giving away any dog or cat that has not been spayed or neutered; provides, under certain circumstances, for the sale or giving away of a dog or cat that has not been spayed or neutered upon the payment of a refundable deposit, as specified; provides for the imposition of fines or civil penalties against the owner of a nonspayed or unneutered dog or cat that is impounded by a public pound or private shelter; and immunizes cities and counties, societies for the prevention of cruelty to animals, and humane societies from an action by the owner of a dog or cat for spaying or neutering the dog or cat in accordance with the law.

This bill would repeal the scheduled repeal date on these provisions. By extending the period of time in which local public pounds have duties under these provisions, this bill would impose a state-mandated local program upon local governments.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 30503 of the Food and Agricultural
2 Code, as amended by Section 2 of Chapter 747 of the Statutes of
3 1998, is amended to read:

4 30503. (a) (1) Except as otherwise provided in subdivision
5 (b), no public animal control agency or shelter, society for the
6 prevention of cruelty to animals shelter, humane society shelter, or
7 rescue group shall sell or give away to a new owner any dog that
8 has not been spayed or neutered.

9 (2) For the purposes of this section a ~~rescue group~~ “rescue
10 group” is a for profit or not for profit entity, or a collaboration of
11 individuals with at least one of its purposes being the sale or
12 placement of dogs that have been removed from a public animal
13 control agency or shelter, society for the prevention of cruelty to
14 animals shelter, or humane shelter or that have been previously
15 owned by any person other than the original breeder of that dog.

16 (b) (1) If a veterinarian licensed to practice veterinary
17 medicine in this state certifies that a dog is too sick or injured to
18 be spayed or neutered, or that it would otherwise be detrimental to
19 the health of the dog to be spayed or neutered, the adopter or
20 purchaser shall pay the public animal control agency or shelter,
21 society for the prevention of cruelty to animals shelter, humane
22 society shelter, or rescue group a deposit of not less than forty
23 dollars (\$40), and not more than seventy-five dollars (\$75). ~~The~~

24 (2) ~~The~~ entity shall establish the amount of the deposit at the
25 level it determines is necessary to encourage the spaying or
26 neutering of dogs. ~~The~~

27 (3) ~~The~~ deposit shall be temporary, and shall only be retained
28 until the dog is healthy enough to be spayed or neutered, as
29 certified by a veterinarian licensed to practice veterinary medicine
30 in this state. ~~The~~

31 (4) ~~The~~ dog shall be spayed or neutered within 14 business days
32 of that certification. ~~The~~

1 (5) *The* adopter or purchaser shall obtain written proof of
2 spaying or neutering from the veterinarian performing the
3 operation. ~~If~~

4 (6) *If* the adopter or purchaser presents proof of spaying or
5 neutering to the entity from which the dog was obtained within 30
6 business days of obtaining the proof, the adopter or purchaser shall
7 receive a full refund of the deposit.

8 (c) Public animal control agencies or shelters, society for the
9 prevention of cruelty to animals shelters, humane society shelters,
10 and rescue groups may enter into cooperative agreements with
11 each other and with veterinarians in lieu of requiring spaying and
12 neutering deposits to carry out this section.

13 (d) Any funds from unclaimed deposits made pursuant to this
14 section, as it read on January 1, 1999, and any funds from deposits
15 that are unclaimed after January 1, 2000, may be expended only
16 for programs to spay or neuter dogs and cats, including agreements
17 with a society for the prevention of cruelty to animals or a humane
18 society or licensed veterinarian to operate a program to spay or
19 neuter dogs and cats.

20 (e) This section only applies to a county that has a population
21 exceeding 100,000 persons as of January 1, 2000, and to cities
22 within that county.

23 ~~(f) This section shall remain in effect only until January 1,~~
24 ~~2006, and as of that date is repealed, unless a later enacted statute~~
25 ~~that is enacted before January 1, 2006, deletes or extends that date.~~

26 SEC. 2. Section 30503 of the Food and Agricultural Code, as
27 added by Section 2.3 of Chapter 747 of the Statutes of 1998, is
28 repealed.

29 ~~30503. (a) No public pound, society for the prevention of~~
30 ~~cruelty to animals shelter, or humane shelter shall sell or give away~~
31 ~~any dog that has not been spayed or neutered, unless a deposit for~~
32 ~~spaying or neutering the dog has been tendered to the pound or~~
33 ~~shelter. The deposit shall be in the amount determined by the~~
34 ~~pound or shelter to be comparable to the lowest fee charged by~~
35 ~~veterinarians in the locale, but shall not exceed forty dollars (\$40).~~
36 ~~A veterinarian shall perform the operation. If a female dog and her~~
37 ~~puppies are sold or given away to one individual, only a single~~
38 ~~deposit shall be required. The pound or shelter may make~~
39 ~~appropriate arrangements for the spaying or neutering of the dog,~~
40 ~~or may return the deposit to the person purchasing or receiving the~~

~~dog upon presentation of a written statement or receipt from the veterinarian or clinic that the dog has been spayed or neutered. The deposit may also include an amount necessary to recover any additional costs under this section.~~

~~(b) Any dog over six months of age at the time it is sold or given away by the pound or shelter shall be spayed or neutered within 60 days, or the deposit shall be deemed unclaimed. Any dog six months of age or younger at the time it is sold or given away by the pound or shelter shall be spayed or neutered within six months, or the deposit shall be deemed unclaimed.~~

~~(c) Any deposit not claimed under subdivision (a) shall be used only for the following purposes:~~

~~(1) A public education program to prevent overpopulation of dogs and cats.~~

~~(2) A program to spay or neuter dogs and cats.~~

~~(3) A followup program to assure that animals sold or given away by the pound or shelter are spayed or neutered.~~

~~(4) Any additional costs incurred under this section.~~

~~(d) Public pounds, society for the prevention of cruelty to animals shelters, and humane shelters may enter into cooperative agreements with each other and with veterinarians in carrying out this section.~~

~~(e) This section shall become operative on January 1, 2006.~~

SEC. 3. Section 30504 of the Food and Agricultural Code is amended to read:

30504. (a) For purposes of this division, each member of a litter of puppies, weaned or unweaned, shall be treated as an individual animal.

~~(b) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends that date.~~

SEC. 4. Section 30526 of the Food and Agricultural Code is repealed.

~~30526. This chapter shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends that date.~~

SEC. 5. Section 30804.7 of the Food and Agricultural Code is amended to read:

30804.7. (a) The owner of a nonspayed or unneutered dog that is impounded once by a city or county animal control agency

1 or shelter, society for the prevention of cruelty to animals, or
2 humane society, shall be fined thirty-five dollars (\$35) on the first
3 occurrence, fifty dollars (\$50) on the second occurrence, and one
4 hundred dollars (\$100) for the third or subsequent occurrence.
5 These fines are for unneutered impounded animals only, and are
6 not in lieu of any fines or impound fees imposed by any individual
7 city, county, public animal control agency or shelter, society for the
8 prevention of cruelty to animals shelter, or humane society shelter.

9 (b) An animal control officer, humane officer, police officer,
10 peace officer, or any agency authorized to enforce the Penal Code
11 may write citations with a civil penalty stated in an amount
12 corresponding to the violation as provided in subdivision (a). The
13 fines shall be paid to the local municipality or public animal
14 control agency or shelter, society for the prevention of cruelty to
15 animals shelter, or humane society shelter. Any funds collected
16 under this section shall be expended for the purpose of humane
17 education, programs for low cost spaying and neutering of dogs,
18 and any additional costs incurred by the public animal control
19 agency or shelter, society for the prevention of cruelty to animals
20 shelter, humane society shelter, or rescue group in the
21 administration of the requirements of this division.

22 (c) This section applies to each county and cities within each
23 county, regardless of population.

24 (d) No city or county, society for the prevention of cruelty to
25 animals, or humane society is subject to any civil action by the
26 owner of a dog that is spayed or neutered in accordance with this
27 section.

28 ~~(e) This section shall remain in effect only until January 1,~~
29 ~~2006, and as of that date is repealed, unless a later enacted statute~~
30 ~~that is enacted before January 1, 2006, deletes or extends that date.~~

31 SEC. 6. Section 31751 of the Food and Agricultural Code is
32 amended to read:

33 31751. ~~(a)~~ For the purposes of this division, each member of
34 a litter of kittens, weaned or unweaned, shall be treated as an
35 individual animal.

36 ~~(b) This section shall remain in effect only until January 1,~~
37 ~~2006, and as of that date is repealed, unless a later enacted statute~~
38 ~~that is enacted before January 1, 2006, deletes or extends that date.~~

SEC. 7. Section 31751.3 of the Food and Agricultural Code, as added by Section 6 of Chapter 747 of the Statutes of 1998, is amended to read:

31751.3. (a) (1) Except as otherwise provided in subdivision (b), no public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group shall sell or give away to a new owner any cat that has not been spayed or neutered.

(2) For the purposes of this section, a ~~rescue group~~ “*rescue group*” is a for profit or not for profit entity, or a collaboration of individuals with at least one of its purposes being the sale or placement of cats that have been removed from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane shelter or that have been previously owned by any person other than the original breeder of that cat.

(b) (1) If a veterinarian licensed to practice veterinary medicine in this state certifies that a cat is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the cat to be spayed or neutered, the adopter or purchaser shall pay the public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group a deposit of not less than forty dollars (\$40), and not more than seventy-five dollars (\$75). ~~The~~

(2) ~~The~~ entity shall establish the amount of the deposit at the level it determines is necessary to encourage the spaying or neutering of cats. ~~The~~

(3) ~~The~~ deposit shall be temporary, and shall only be retained until the cat is healthy enough to be spayed or neutered, as certified by a veterinarian licensed to practice veterinary medicine in this state. ~~The~~

(4) ~~The~~ cat shall be spayed or neutered within 14 business days of that certification. ~~The~~

(5) ~~The~~ adopter or purchaser shall obtain written proof of spaying or neutering from the veterinarian performing the operation. ~~If~~

(6) ~~If~~ the adopter or purchaser presents proof of spaying or neutering to the entity from which the cat was obtained within 30 business days of obtaining the proof, the adopter or purchaser shall receive a full refund of the deposit.

1 (c) Public animal control agencies or shelters, society for the
2 prevention of cruelty to animals shelters, humane society shelters,
3 and rescue groups may enter into cooperative agreements with
4 each other and with veterinarians in lieu of requiring spaying and
5 neutering deposits to carry out this section.

6 (d) Any funds from unclaimed deposits made pursuant to this
7 section, as it read on January 1, 1999, and any funds from deposits
8 unclaimed after January 1, 2000, may be expended only for
9 programs to spay or neuter cats and dogs, including agreements
10 with a society for the prevention of cruelty to animals or a humane
11 society or licensed veterinarian, to operate a program to spay or
12 neuter cats and dogs.

13 (e) This section only applies to a county that has a population
14 exceeding 100,000 persons as of January 1, 2000, and to cities
15 within that county.

16 ~~(f) This section shall remain in effect only until January 1,~~
17 ~~2006, and as of that date is repealed, unless a later enacted statute~~
18 ~~that is enacted before January 1, 2006, deletes or extends that date.~~

19 SEC. 8. Section 31751.3 of the Food and Agricultural Code,
20 as added by Section 6.3 of Chapter 747 of the Statutes of 1998, is
21 repealed.

22 ~~31751.3.—(a) No public pound, society for the prevention of~~
23 ~~cruelty to animals shelter, or humane shelter shall sell or give away~~
24 ~~any cat that has not been spayed or neutered, unless a deposit for~~
25 ~~spaying or neutering the cat has been tendered to the pound or~~
26 ~~shelter. The deposit shall be in the amount determined by the~~
27 ~~pound or shelter to be comparable to the lowest fee charged by~~
28 ~~veterinarians in the locale, but shall not exceed thirty dollars (\$30).~~
29 ~~A veterinarian shall perform the operation. If a female cat and her~~
30 ~~kittens are sold or given away to one individual, only a single~~
31 ~~deposit shall be required. The pound or shelter may make~~
32 ~~appropriate arrangements for the spaying or neutering of the cat,~~
33 ~~or may return the deposit to the person purchasing or receiving the~~
34 ~~cat upon presentation of a written statement or receipt from the~~
35 ~~veterinarian or clinic that the cat has been spayed or neutered. The~~
36 ~~deposit may also include the amount necessary to recover any~~
37 ~~additional costs under this section.~~

38 ~~(b) All cats over six months of age at the time they are sold or~~
39 ~~given away by the pound or shelter shall be spayed or neutered~~
40 ~~within 60 days, or the deposit shall be deemed unclaimed. All cats~~

~~1 six months of age or younger at the time they are sold or given
2 away by the pound or shelter shall be spayed or neutered within six
3 months, or the deposit shall be deemed unclaimed.~~

~~4 (c) Any deposits not claimed under subdivision (a) shall be
5 used only for the following purposes:~~

~~6 (1) A public education program to prevent overpopulation of
7 cats and dogs.~~

~~8 (2) A program to spay or neuter cats and dogs.~~

~~9 (3) A followup program to assure that animals sold or given
10 away by the pound or shelter are spayed or neutered.~~

~~11 (4) Any additional costs incurred under this section.~~

~~12 (d) Public pounds, society for the prevention of cruelty to
13 animals shelters, and humane shelters may enter into cooperative
14 agreements with each other and with veterinarians in carrying out
15 this section.~~

~~16 (e) This section shall become operative on January 1, 2006.~~

17 SEC. 9. Section 31751.7 of the Food and Agricultural Code
18 is amended to read:

19 31751.7. (a) The owner of a nonspayed or unneutered cat that
20 is impounded once by a city or county animal control agency or
21 shelter, society for the prevention of cruelty to animals, or humane
22 society, shall be fined thirty-five dollars (\$35) on the first
23 occurrence, fifty dollars (\$50) on the second occurrence, and one
24 hundred dollars (\$100) for the third or subsequent occurrence.
25 These fines are for unneutered impounded animals only, and are
26 not in lieu of any fines or impound fees imposed by any individual
27 city, county, public animal control agency or shelter, society for the
28 prevention of cruelty to animals shelter, or humane society shelter.

29 (b) An animal control officer, humane officer, police officer,
30 peace officer, or any agency authorized to enforce the Penal Code
31 may write citations with a civil penalty stated in an amount
32 corresponding to the violation as provided in subdivision (a). The
33 fines shall be paid to the local municipality or public animal
34 control agency or shelter, society for the prevention of cruelty to
35 animals shelter, or humane society shelter. Any funds collected
36 under this section shall be expended for the purpose of humane
37 education, programs for low cost spaying and neutering of cats,
38 and any additional costs incurred by the animal shelter in the
39 administration of the requirements of this division.

1 (c) Local ordinances concerning the adoption or placement
2 procedures of any public animal control agency or shelter, society
3 for the prevention of cruelty to animals shelter, humane society
4 shelter, or rescue group shall be at least as restrictive as this
5 division.

6 (d) This section applies to each county and cities within each
7 county, regardless of population.

8 (e) No city or county, society for the prevention of cruelty to
9 animals, or humane society is subject to any civil action by the
10 owner of a cat that is spayed or neutered in accordance with this
11 section.

12 ~~(f) This section shall remain in effect only until January 1,~~
13 ~~2006, and as of that date is repealed, unless a later enacted statute~~
14 ~~that is enacted before January 1, 2006, deletes or extends that date.~~

15 SEC. 10. Section 31766 of the Food and Agricultural Code is
16 repealed.

17 ~~31766. This chapter shall remain in effect only until January~~
18 ~~1, 2006, and as of that date is repealed, unless a later enacted statute~~
19 ~~that is enacted before January 1, 2006, deletes or extends that date.~~

20 SEC. 11. No reimbursement is required by this act pursuant
21 to Section 6 of Article XIII B of the California Constitution
22 because a local agency or school district has the authority to levy
23 service charges, fees, or assessments sufficient to pay for the
24 program or level of service mandated by this act, within the
25 meaning of Section 17556 of the Government Code.

